

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7135

BILL NUMBER: HB 1224

DATE PREPARED: Jan 24, 2002

BILL AMENDED: Jan 24, 2002

SUBJECT: Voting Systems and Voter Registration.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) Provides that certain voters whose registration is in question may cast a provisional ballot.

(B) Provides that furnishing all voters of the county with a sample ballot is an expense for which counties may be reimbursed from the Voting Systems Education Fund (VSEF).

(C) Provides that any voter may vote by absentee ballot in the office of the circuit court clerk or satellite offices. Permits military and overseas voters to submit absentee ballots by fax under certain circumstances. Makes other changes relating to casting absentee ballots.

(D) Removes language that permits the use of noncompliant voting systems under certain circumstances.

(E) Provides for the use of voting systems that provide a practical and effective means for voters with disabilities to cast ballots in private.

(F) Requires that after December 31, 2004, a voting system must demonstrate to the voter whether the voter's ballot has overvotes or undervotes if the voting system is capable of providing this information.

(G) Repeals superseded statutes relating to: (1) registration of military voters and overseas voters; and (2) counting absentee ballots at a central location.

Effective Date: (Amended) July 1, 2002; January 1, 2003.

Explanation of State Expenditures: (Revised) (A) This section of the bill would require the Election Division to print and ship provisional ballots for state offices and the President of the United States (in

Presidential election years) to county circuit court clerks or the director of the board of elections in registrations (for certain counties). The Election Division is already required to print ballots for certain general elections under current law. There will be some additional expenditures to the Election Division to provide provisional ballots to counties. As more counties adopt electronic voting systems that do not require paper ballots, the impact of this provision would subside. Currently, unused funding for printing of ballots by the Division are reverted to the state General Fund. The Election Division printed approximately 250,000 ballots at \$0.25 per ballot for the 2000 general election ($250,000 \times \$0.25 = \$62,500$). The Election Division would be required to send the provisional ballots by certified mail. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged for each additional ounce.

As of January 2, 2002, the Election Division had 13 full-time positions, one vacant (full-time), and one intermittent position.

Penalty Provision: Under the bill, a provisional ballot counter that knowingly causes a vote to be incorrectly taken down for a candidate or public question or makes a false statement, certificate, or return of any sort for that vote commits a Class D felony. Additionally, if a provisional ballot counter knowingly opens or marks a ballot (unless allowable by law) or attempts to know the vote of the voter before a ballot is put in a ballot box, or cast on a voting machine, electronic voting system, or ballot card voting system, the provisional ballot counter commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

(B) Under current law (P.L. 239-2001), counties may apply for a grant from the VSEF for the development of programs meant to educate voters in the county. Applications must be sent to the state Budget Agency. The Budget Agency, after review by the state Budget Committee, is required to approve a county's application to receive grant money from the VSEF if the application demonstrates: (1) the county has developed a voter education program on the use of the county's voting system; (2) the Election Commission has approved the program and the county's implementation of the program; (3) that the program will enhance the familiarity, accessibility, ease of use, and public confidence in the county's voting system.

The bill would allow VSEF grants to be used for the furnishing of all voters of the county with sample ballots before an election. The impact of this provision to state expenditures will depend on availability of money in the Fund and approvals of grants made by the Budget Agency (see *Explanation of Local Expenditures*). Currently, there have been no transfers of funds to the VSEF.

Under Public Law 291-2001, the General Assembly appropriated from the Build Indiana Fund \$4 M for local election equipment matching grants and \$5 M for local election and voter registration equipment.

(E) The Election Commission would be required to determine whether a voting system is accessible enough for voters with disabilities to be able to cast a vote in private. The Commission could incorporate the examination of voting systems under this basis in the course of business of a normally scheduled meeting

of the Commission.

Explanation of State Revenues: (A) *Penalty Provision:* The bill provides for a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) (A) County election boards and circuit court clerks will see increased administrative responsibilities relating to the pre-election processing, delivery, and post-election processing of provisional ballots. Specifically, the circuit court clerk will be required to estimate the number of provisional ballots required to vote in the county. Ballots not involving elections for President, Vice President, United States Senator, all state offices, public questions put to the entire state electorate, or retention of judges on the state Supreme Court or Court of Appeals would be required to be printed by the county election board. Cost to produce ballots would vary by county. Each provisional ballot must be signed by the circuit court clerk or their designate.

The bill would also allow the county election board to contract with a state university or college to dispose of the ballots for the purpose of election research.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

(B) The bill gives the option for a county to mail sample ballots to all voters of the county. If this option is exercised by the county, the county may apply for a grant from the VSEF to cover the expenditure of the sample ballots as described above.

Assuming the cost of a sample ballot is \$0.25 per ballot, it is estimated, based upon the number of registered voters in the state, the total cost to print sample ballots to send to every registered voter in every Indiana county would be approximately \$1 M. As of the 2000 general election, the Election Division reported 4,000,809 registered voters in Indiana.

(C) This provision would save certain mailing costs to circuit court clerks and county election boards by faxing either general election or special election absentee ballots. With respect to absent uniformed services voters or overseas voters, sending a fax of an absentee ballot could significantly reduce the transaction cost of the ballot for election boards. The county election board would be required to send confirmation that the ballot had been received either by fax or electronic mail. However, if neither a fax number or electronic mail address is provided, the board would have to send confirmation by United States mail.

Absentee ballot forms may need to be revised in order to reflect these changes and to provide proof of residency and qualification to vote.

Precinct election officers could have minimal increase in duties to compare signatures at the polls. Additionally, county election boards may require more administrative time to certify transmitted affidavit signatures.

(E) Depending on the ruling of the Election Commission regarding the accessibility of current voting

systems, future local purchases of voting systems could be influenced, or existing voting systems that are currently acceptable for use may be ruled as unacceptable.

(F) Under the bill, existing voting systems in place after December 31, 2004, with the capability of demonstrating to the voter that the voter has undervoted or overvoted on a ballot must be utilized during an election. The impact of this provision will vary by county and depend on the capability of the voting system. The provision would effectively not present an impact to the approximate eight lever machine, 26 DRE (Direct Recording Electronic), and 23 optical-scan counties that currently employ these respective voting systems.

Under P. L. 239-2001, the 35 counties that employed punch-card voting systems during the 2000 general election must adopt an approved voting system. Current law already requires the Election Commission to no longer approve a punch-card voting system after June 30, 2001. Also under current law (P.L. 239-2001), the state may provide a 50% match for the purchase, lease, or lease purchase of voting equipment by a county if necessary approval has been attained from the Budget Agency. Current law also covers 50% from the VSIF for the upgrade of existing voting systems. Given that statute already requires the conversion of punch-card counties, this provision of the bill should not incur an additional fiscal impact to remaining counties without either optical-scan or DRE equipment, namely the remaining lever counties, as they could choose to replace their voting machines regardless of this provision. If this provision is interpreted that existing DRE counties that do not have the necessary software to demonstrate undervotes and overvotes to a voter, those respective counties may have to purchase the necessary software.

Background: Under Public Law 291-2001, the General Assembly appropriated from the Build Indiana Fund \$4 M for local election equipment matching grants and \$5 M for local election and voter registration equipment. As mentioned above, no funds have yet been transferred to either the VSEF or VSIF.

Explanation of Local Revenues: (A) *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Election Division; Indiana Election Commission; State Budget Agency; Department of Correction.

Local Agencies Affected: Counties, towns, precincts; Trial courts, local law enforcement agencies.

Information Sources: Spencer Valentine & Laurie Christie, Co-Directors, Indiana Elections Division, Office of Secretary of State, (317) 232-3939; Rob McGinnis, Election Systems and Software, (317) 913-0230; Steve Corey, Government Business Systems, 1-800-659-1516; Steve Shamo, Micro Vote, (317) 257-4900; State of Indiana, *HRM Detail Staffing Report Position and Employee Totals, 1/02/2002*; United States Postal Service; Indiana Sheriffs Association; Department of Correction.